IN THE HIGH COURT OF DELHI

Crl.M.C.No.3770/2005

#	Neeraj Verma	.....	Petitioner
!	through:	Mr.R.N.Mittal, Sr. Advocate with Ms.Akanksha Verma Chandok, Advocate	

VERSUS

$	State	.....	Respondent
^	through:	Mr.Anil Soni, Advocate	

Crl.M.C.No.1826/2004

#	Jashvir Singh & Ors.	.....	Petitioner
!	through:	Mr.K.B.Andley, Sr.Advocate with Mr.Suresh Sisodia, Advocate	

VERSUS

$	State	.....	Respondent
^	through:	Mr.Anil Soni, Advocate	

% DATE OF DECISION: 13.08.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**
*

1. Petitioners seek quashing of FIR 625/2006 qua them.

2. Neeraj Verma is the petitioner in Crl.M.C.

No.3770/2005. Petitioners Jashvir Singh, Suresh Chand, Banwari Lal and Harinder Kumar are co-petitioners in Crl.M.C. No.1826/2004.

3. FIR in question being FIR No.625/2003 dated 22.12.2003 under Section 302/34 IPC has been registered on the statement of Smt. Sudha Rani, wife of Ramji Lal. She stated that her husband was an active worker of Bhartiya Janta Party and at a function held on 10.12.2003 Harinder, Jasbir (Jashvir), Banwari, Suresh Pehalwan and Manish were present. That on said day at the asking of Harinder, Jashvir, Banwari and Suresh Pehelwan Manish gave beating to her husband. That at 11:00 PM on 22.10.2003 she along with her husband, son Vikrant and daughter Devyani were coming down from their house when Harinder, Jashvir, Banwari, Suresh Pehelwan and Manish came from Central Market side near their house. One of them fired at her husband. That her husband was hit on the chest. After shooting her husband all accused persons left the site.

4. Ramji Lal was taken to the hospital by a PCR van. He was declared brought dead.

5. In their statements recorded under Section 161 Cr.P.C., Vikrant and Devyani made statements identical to the statements made by their mother.

6. After a few days 2 purported eyewitnesses surfaced. They were Suresh Kumar and Raj Kumar. Police recorded their statements under Section 161 Cr.P.C. In the statements they stated that Manish and Neeraj came to the house of the deceased on a motor cycle and fired a shot at him from a pistol.

7. A challan was presented by the police after investigation in which Manish and Neeraj were sent up for trial as accused persons. Names of Suresh, Banwari, Jasbeer and Harinder were entered in Column No.2 as name of accused persons not sent up for trial.

8. Learned Metropolitan Magistrate directed further inquiry. Position remained as it is. For unexplainable reasons vide order dated 22.4.2004 all persons namely, Suresh Chand, Banwari Lal, Jashveer, Harinder, Manish and Neeraj were summoned and matter was posted for arguments on framing of charges.

9. By and under the above captioned petitions Neeraj as also Harinder, Jashveer, Banwari and Suresh pray that the summoning orders be quashed.

10. Argument of learned senior counsel for the petitioners is simple. There cannot be 2 versions of the same incident. Counsels argue that either as per statement made by the wife of

the deceased the attackers came in a car and one out of them shot the deceased or the version could be that Manish and Neeraj came to the spot on a motor cycle and Manish fired the shot at the deceased.

11. Whereas learned counsel for Neeraj relied upon the statements of the widow and children of the deceased to urge that there was no basis to summon him as an accused, learned counsel for Jasbeer and others relied upon subsequent statements made by Suresh Kumar and Raj Kumar to urge that his clients could not be summoned to face trial as accused persons.

12. The summoning order being allowed to stand would result in the obvious. The case of the prosecution would collapse like nine pins.

13. In my opinion the summoning order to all accused persons needs to be quashed at this stage but simultaneously directions need to be issued for further investigation to be carried out.

14. Needless to state, under Sections 173(8) of the Code of Criminal Procedure, 1973 further investigations can be directed.

15. Matter needs a thorough probe. Who is the truthful witness of the prosecution needs to be sorted out. In my opinion

further investigation needs to be entrusted to the Crime Branch of Delhi Police. Further, the investigation needs to be carried out by an officer not below the rank of Assistant Commissioner of Police.

16. Both petitions stand disposed of quashing the summoning order passed by the learned Trial Judge summoning the petitioners to face trial in the above captioned FIR. Directions are issued to the Commissioner, Police to transfer above noted FIR to the Crime Branch of Delhi Police. Further directions are issued that further investigations would be conducted by an officer not below the rank of Assistant Commissioner of Police. The supplementary report would be submitted to the learned Trial Judge who would thereupon pass fresh orders as per the supplementary report and as required by law.

17. LCR be returned.

18. Copy of this order be supplied dasti to learned counsel for parties.

13 August, 2007 PRADEEP NANDRAJOG, J
vg